Benin

Population\(^1\) 11,485,048
Area (km\(^2\))\(^1\) 114,760
GDP per capita (USD)\(^1\) 1,240.82
TES (Mtoe)\(^2\) 5.24
Energy intensity (toe/10\(^3\) 2015 USD)\(^2\) 0.54
CO\(_2\) emissions - energy (MtCO\(_2\))\(^3\) 7.2

Data by Orbis Crossborder Investment on completed energy projects and deals from 2015-2021\(^4\)

<table>
<thead>
<tr>
<th>Target industry</th>
<th>Number of projects and deals</th>
<th>Project CapEx and deal value (million EUR) by source country</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electric power generation, transmission and distribution</td>
<td>2 new projects</td>
<td>Germany: 1 FF project of 213.2 mEUR</td>
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<tr>
<td></td>
<td></td>
<td>United Arab Emirates: 1 RE project of 15.8 mEUR</td>
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</tbody>
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Sources:
1. The World Bank 2018
4. Orbis Crossborder Investment (2021), Bureau Van Dijk. Benin is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2021 (accessed on 1 July 2021). For more information see Annex II of this report.

RE: Electricity generation from renewable resources
FF: Electricity generation from fossil fuels
Benin’s overall risk level against the assessed areas is low.

Of the three risks assessed in EIRA, breach of State obligations is lower compared to discrimination between domestic and foreign investors and unpredictable policy and regulatory change.

Benin’s performance is good on two of the EIRA indicators, and it is moderate on two indicators. Management of decision-making processes is the highest-scoring indicator this year at 80, followed by rule of law at 78. Its score on regulatory environment and investment conditions has improved by eight points and stands at 53, while foresight of policy and regulatory change is at 49.

On a more detailed level, Benin’s overall sub-indicator performance is good. In 2021, institutional governance is the highest-scoring sub-indicator at 88, followed by management and settlement of investor-State disputes at 80. It has a good score of 75 on respect for property rights. On transparency the score has increased from 68 to 72, while communication of vision and policies is at 65. Its score on the sub-indicators regulatory effectiveness and restrictions on FDI is 61 and 45, respectively. Robustness of policy goals and commitments is the lowest-scoring sub-indicator at 34.

While Benin has the relevant policies and measures in place, there is potential for improvement. Attention should be given to increasing the robustness of its policy goals and commitments.
INDICATOR 1

Foresight of policy and regulatory change

QUICK FACTS

In April 2020, Law no. 2020-05 introducing the new Electricity Code of Benin came into force.

Benin ratified the Paris Agreement in 2016 and submitted an updated version of its NDC, which covers the energy sector.

STRENGTHS
The Government of Benin is tapping into the country’s renewable energy potential to secure affordable and universal energy access for its population. The 2020 Electricity Code has liberalised the power sector, improved licensing procedures, and made renewable power generation investments commercially viable. The Millennium Challenge Account-Benin II (MCA-Benin II) and the Off-Grid Clean Energy Facility, alongside the Government, have dedicated resources and expertise to mini-grid projects. In November 2020, construction began on the DEFISOL solar power plant, funded by the EU and France. The DEFISOL plant will supply the country with 35 GWh of electricity a year and reduce annual GHG emissions by 23,000 tonnes of CO₂ over 25 years.

The National Electricity Regulatory Authority (ARE) and the Agency for Rural Electrification and Energy Management (ABERME) are responsible for the implementation and appraisal of power projects. The Government has set up a rural electrification and renewables fund to finance the extension of the distribution networks and the installation of off-grid electrification solutions.

AREAS FOR IMPROVEMENT
The Government has made progress in implementing GAP 2016-2021, particularly on facilitating the development of a competitive energy market. It is now a timely moment for the Government to prepare a long-term energy strategy comprising measurable policy targets and implementation plans. This approach is especially relevant to the scaling up of renewable energy and the growth of the country’s nascent off-grid sector as both are essential to secure energy independence and ensure 100% electricity access.

The 2020 Electricity Code defines the roles and responsibilities of the State agencies implementing and monitoring the country’s energy strategy. However, the Government should further streamline the monitoring process and coordinate the Code’s implementation by rationalising and operationalising it through secondary legislation and plans.

INDICATOR 2

Management of decision-making processes

QUICK FACTS
The Ministry of Energy is responsible for the overall energy policy formulation process.

The Ministry of Living Conditions and Sustainable Development is in charge of the country’s environmental issues, including its NDC implementation.


Law no. 2020-02 of 2020 introducing the Investment Code has come into force.

STRENGTHS
The Government’s efforts to attract private investment in support of economic growth has culminated in the adoption of the 2020 Investment Code. The new Code overhauls the institutional framework by abolishing the requirement of project approval by the Minister of Planning. Instead, three institutions are now in charge of investment promotion. More specifically, the National Agency in charge of investment promotion is a one-stop shop that facilitates the administrative formalities on the approval of projects linked to the 2020 Investment Code. The Investment Control Commission verifies the conformity of investments with the authorisation regime, while the Inter-ministerial Committee monitors and evaluates all investments that benefit from the advantages provided in the new Investment Code.

As with the Petroleum Code, the 2020 Investment Code seeks to reinforce transparency in the public sector. Hence, it strictly prohibits any act of corruption during or after the establishment of an investment. Moreover, it does not allow investors to use funds derived from unlawful activities. The 2020 Electricity Code crystallises the ARE’s legal obligation to publish all tariff-related information. Also, it guarantees the participation of private entities, consumers associations and professional organisations in the development of policies and laws related to the electricity sector.

AREAS FOR IMPROVEMENT
Stakeholder engagement in the decision-making processes ensures the proposed regulation’s legitimacy and reinforces ownership and responsibility in implementation. It is, thus, reiterated that the Government of Benin should adopt an overarching law on public consultation to facilitate cross-sector dialogue, prevent conflict between the public and the Government and increase citizens’ confidence in public institutions.
**INDICATOR 3**

**Regulatory environment and investment conditions**

**QUICK FACTS**

The Ministry of Energy is responsible for the development and oversight of the electricity sector.

The petroleum sector’s governance is the responsibility of the Ministry of Water and Mines.

The ARE’s role is enshrined in Decree no. 2009-182 on the Creation, Attributions, Organisation and Functions of the ARE.

**STRENGTHS**

The 2020 Electricity Code makes the ARE’s decision-making organ, the National Council, leaner by reducing its membership from nine to seven. Five of its members will now be selected through an open competition, and their mandate will be time-bound and renewable only once. Similar changes have been introduced to the appointment of the ARE’s Executive Secretary, who manages its daily activities. The ARE’s regulatory responsibilities have also grown since it is now responsible for issuing permits to off- and mini-grid promoters. Moreover, it is required to set and publish cost-reflective tariffs for renewable energy projects in advance.

The adoption of the 2020 Electricity Code eliminates the National Electric Power Company’s (SBEE) market monopoly and opens up the production, distribution, transmission and marketing of electricity to private investors. This development is in line with the Government’s overall privatisation scheme, which includes targeted divestiture programmes such as the private management of the SBEE through 2023. The 2020 Investment Code introduces an avenue to resolve investor conflicts before they precipitate into full-scale disputes. The Code states that difficulties in the interpretation of its provisions may be settled by instructions (circulaires) from the Interministerial Committee for Investment Promotion on the proposal of the National Agency in charge of investment promotion. Parties can submit a dispute for arbitration to a forum of their choosing, such as the Arbitration, Mediation and Conciliation Center of the Chamber of Commerce and Industry of Benin (CAMEC), the Common Court of Justice and Arbitration of OHADA (CCJA-OHADA), the Multilateral Investment Guarantee Agency or ICSID.

Guarantees against unlawful expropriation and arbitrary nationalisation are intact in the 2020 Investment Code. Law on Modernisation of Justice in Benin reinforces the land ownership regime by reducing the formalities governing the exercise of legal remedies in applying the Land and State Code. IP rights are protected under national laws, BITs and international treaties, such as the Bangui Agreement.

**AREAS FOR IMPROVEMENT**

The Government has improved the ARE’s status considerably by setting criteria and an open selection procedure for its members and restricting their appointment to a one-time renewal. However, it may take further steps to safeguard the appropriate, sufficient and autonomous operation of the ARE, including complete budgetary independence with funds deriving exclusively from its market operations.

**SCORE**

53

**INDICATOR 4**

**Rule of law**

**QUICK FACTS**


Benin is a Member State of the OHADA. In 2017, OHADA revised the Uniform Act on Arbitration to include provisions on commercial and investment arbitration.

**STRENGTHS**

In 2020 and 2021, the Government carried out numerous reforms in the justice sector. In April 2020, Law no. 2020-08 on Modernisation of Justice in Benin was adopted to improve the transparency of domestic judicial proceedings, ensure the speedy disposal of cases, and facilitate access to justice. The said Law modifies the Code of Civil, Commercial, Social, Administrative and Accounts Procedure to ensure better compliance with the rule of “reasonable time” in case management and provides for the use of innovative digital tools. The 2020 Investment Code introduces an avenue to resolve investor conflicts before they precipitate into full-scale disputes. The Code states that difficulties in the interpretation of its provisions may be settled by instructions (circulaires) from the Interministerial Committee for Investment Promotion on the proposal of the National Agency in charge of investment promotion. Parties can submit a dispute for arbitration to a forum of their choosing, such as the Arbitration, Mediation and Conciliation Center of the Chamber of Commerce and Industry of Benin (CAMEC), the Common Court of Justice and Arbitration of OHADA (CCJA-OHADA), the Multilateral Investment Guarantee Agency or ICSID.

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**AREAS FOR IMPROVEMENT**

Following the enactment of Law on Modernisation of Justice in Benin and the 2020 Investment Code, the Government must now implement these important legislative initiatives. Robust and systematic implementation will require political commitment as well as human and financial resources.

**SCORE**

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IMPLEMENTATION STATUS
### Indicator 1

**2019**

- **Proposed in:** Introduce market-based incentive instruments to promote the deployment of domestic renewable energy resources.

- **Implementation Status:** Work ongoing. The 2020 Electricity Code boosts private investment in renewable energy. During 2020-2021 some solar projects were commenced, including the DEFISOL solar power plant, funded by the EU and France. The DEFISOL plant will supply the country with 35 GWh of electricity a year and reduce annual GHG emissions by 23,000 tonnes of CO₂, a year over a 25-year period.

- **2021**

- **Proposed in:** Define the responsibilities of the bodies conducting policy monitoring tasks and those implementing the national energy policy.

- **Implementation Status:** Work ongoing. The 2020 Electricity Code provides for a clearer demarcation of roles and responsibilities between various authorities involved in the monitoring and implementation of the national energy policy.

- **Proposed in:** Introduce a policy review process that allows for periodic assessments.

- **Implementation Status:** Work ongoing. The 2020 Electricity Code provides for periodic revision of the renewables and energy efficiency policy.

- **Proposed in:** Review the national energy strategy in a timely fashion and introduce in it measurable policy targets (GAP 2016-2021).

- **Implementation Status:** Improvement suggested in 2021. Status will be updated in 2022.

### Indicator 2

**2019**

- **Proposed in:** Adopt an overarching legal framework that requires the Government to undertake public consultations before adopting new laws and regulations.

- **Implementation Status:** Work ongoing. Benin adopted its Electricity Code in 2020, requiring the energy regulator to publish all tariff-related information and ensure public participation in framing electricity sector regulations.

### Indicator 3

**2019**

- **Proposed in:** Reinforce the functional and institutional autonomy of the Electricity Regulatory Authority (ARE).

- **Implementation Status:** Work ongoing. The 2020 Electricity Code reinforces the ARE’s independence and liberalises generation, transmission and distribution of electricity.

- **Proposed in:** Integrate local content requirements in the country’s overall development strategy and set up an agency for its transparent and efficient administration.

- **Implementation Status:** Fully implemented. The 2020 Investment Code links the granting of investment incentives to the training and education of local employees.

- **Proposed in:** Designate a competent authority to regulate competition in the energy sector.

- **Implementation Status:** Fully implemented. Under the new Electricity Code, the ARE must ensure healthy and legal competition in the sector and protect the interests of consumers and the State.

### Indicator 4

**2019**

- **Proposed in:** Introduce frameworks to examine cases and the delivery of judgements.

- **Implementation Status:** Work ongoing. Law No. 2020-08 on Modernisation of Justice in Benin was adopted with the aim to improve transparency and increase the speed of court proceedings.